**Donna Epps**
Vice President
Federal Regulatory

1300 I Street, NW, Suite 400 West
Washington, DC 20005

Phone 202 515-2527
Fax 202 336-7922
donna.m.epps@verizon.com

January 7, 2005

**Ex Parte**

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68; Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92**

Dear Ms. Dortch:

On behalf of Verizon, I am requesting that the attached documents regarding the appropriate intercarrier compensation for Virtual NXX traffic be filed in the record of the above dockets. Please let me know if you have any questions.

Sincerely,

Donna Epps

Attachment

cc: Scott Bergmann
Matt Brill
Jeff Carlisle
Dan Gonzalez
Christopher Libertelli
Steve Morris
Tamara Preiss
Jessica Rosenworcel

## VERIZON'S TREATMENT OF ALL TYPES OF INTEREXCHANGE CALLS — INCLUDING VIRTUAL NXX CALLS — IS CONSISTENT WITH THE COMMISSION'S EXISTING RULES WHICH EXCLUDE ALL SUCH CALLS FROM RECIPROCAL COMPENSATION AND ISP INTERCARRIER COMPENSATION

The Commission's existing rules provide that all calls between customers in different local calling areas — even where, as in a Virtual NXX call, the caller dials what appears to be a "local" number to place a call to a distant local calling area — are not subject to either reciprocal compensation or intercarrier compensation under the *ISP Remand Order*[1] ("ISP intercarrier compensation"). Although the Commission is currently in the process of a comprehensive reevaluation of the intercarrier compensation rules for all traffic exchanged between carriers, until the Commission amends its rules it must enforce its existing rules, including as they apply to Virtual NXX calls. *See*, *e.g.*, *National Family Planning & Reproductive Health Ass'n, Inc. v. Sullivan*, 979 F.2d 227, 234 (D.C. Cir. 1992) ("an agency issuing a legislative rule is itself bound by the rule until that rule is amended or revoked").

The Commission's current intercarrier compensation rules for wireline calls plainly exclude interexchange calls from both reciprocal compensation and ISP intercarrier compensation. Indeed, there is no dispute that neither reciprocal compensation nor ISP intercarrier compensation is due when an ILEC's customer in Philadelphia places a long-distance call to a CLEC customer in Allentown or Los Angeles, regardless of whether the CLEC's customer is an end user or an ISP. Instead, CLECs claim that, merely by assigning their customer a telephone number that appears "local" to the ILEC customer, they are suddenly entitled to reciprocal compensation or ISP intercarrier compensation. But nothing in the Commission's existing rules — which, respectively, incorporate the statutory definition of

[1] Order on Remand and Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, 16 FCC Rcd 9151 (2001) ("*ISP Remand Order*").

"exchange access" and are limited to "calls made to [ISPs] *located within the caller's local calling area,*" *WorldCom, Inc. v. FCC*, 288 F.3d 429, 430 (D.C. Cir. 2002) (emphasis added) — turns on the number a CLEC assigns to its customer.

Some, however, have argued that excluding Virtual NXX calls from reciprocal compensation and ISP intercarrier compensation is inconsistent with the treatment of other calls, such as traditional FX calls, wireless calls, and VoIP calls. In fact, the treatment of all such calls — under both the Commission's rules and Verizon's practice — is consistent. In all cases, reciprocal compensation and ISP intercarrier compensation do not apply to interexchange (or, in the wireless context, interMTA) calls. Verizon uses telephone numbers to determine whether calls are interexchange, but uses those numbers as a *proxy* for the location of the parties to a call, and where they represent the best information Verizon has as to those locations or where inaccuracies affect a sufficiently small proportion of the traffic exchanged that the development of more accurate geographic billing factors (or use of more accurate location information) is unwarranted. Thus, because CLEC calls to Verzion's traditional FX customers (where the telephone number is not an accurate proxy for the Verizon customer's location) make up less than 1 percent of all CLEC calls to Verizon customers, Verizon has not developed billing factors to account for such calls. At the same time, Verizon has repeatedly offered to work with CLECs to develop such factors, if the CLEC is willing to do the same for its Virtual NXX calls. No CLEC, however, has taken Verizon up on that offer — which still stands — for the simple reason that Virtual NXX calls account for 50 percent or more of the traffic certain CLECs receive from Verizon. For wireless calls, Verizon already utilizes billing factors developed by the carrier from which it receives a wireless call (whether from a wireless carrier or an interexchange carrier, when such factors are provided) to address the fact that the wireless caller's number may not reflect the caller's location. Verizon is also willing to work with CLECs or other LECs to develop appropriate, auditable billing factors for VoIP calls they exchange.

Finally, Verizon notes that, because it addresses here the Commission's *existing* rules, nothing the Commission does in applying its existing rules as written will constrain this Commission's options as it confronts the question of how to restructure comprehensively the various intercarrier compensation regimes.

**1.** ***Virtual NXX Calls.*** Any determination of the intercarrier compensation due for Virtual NXX calls — whether to ISPs or to voice customers — must begin with the Commission's existing rules, as noted above. Although more than 30 state commissions have addressed Virtual NXX calls, the Commission has addressed the applicability of its existing intercarrier compensation rules to such calls only once. In the *Maryland/DC/West Virginia 271 Order*,[2] the Commission explained that, while it "has not had occasion to determine whether incumbent LECs have a duty to pay reciprocal compensation for virtual [NXX] traffic under section 252(d)(2)," it could "find no clear Commission precedent or rules declaring such a duty." *Maryland/DC/West Virginia 271 Order* ¶ 151.[3] Review of the existing rules demonstrates that

[2] Memorandum Opinion and Order, *Application by Verizon Maryland Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Maryland, Washington, D.C., and West Virginia*, 18 FCC Rcd 5212 (2003) ("*Maryland/DC/West Virginia 271 Order*").

[3] Similarly, when the Commission considered whether its existing rules permit an ILEC to require a CLEC to take financial responsibility for transporting calls at a point on the ILEC's side of the point of interconnection, the Commission held that such a requirement "do[es] not represent a violation of our existing rules." *See* Memorandum Opinion and Order, *Application of Verizon Pennsylvania Inc., et al. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, 16 FCC Rcd 17419, ¶ 100 & n.341 (2001).

Virtual NXX calls — no different from traditional foreign exchange ("FX") calls — are *not* subject either to reciprocal compensation or ISP intercarrier compensation.[4]

**a.** *Voice Traffic.* The Commission's current rules provide that telecommunications traffic "exchanged between a LEC and a telecommunications provider other than a CMRS provider" is not subject to reciprocal compensation if it is "interstate or intrastate exchange access." 47 C.F.R. §§ 51.701(b)(1), 51.703(a). There is no dispute that, under this rule, a variety of calls between ILEC and CLEC end-user customers are *not* subject to reciprocal compensation. This includes 1+ dialed long-distance calls, Feature Group A calls, 1-800 calls, intraLATA and interLATA traditional FX calls,[5] and intraLATA toll calls, regardless of whether the ILEC or an IXC provides the intraLATA toll service to the calling party. That is because all of these calls satisfy the statutory definition of "exchange access" in 47 U.S.C. § 153(16).

Congress defined "exchange access" as "the offering of [1] access to telephone exchange services or facilities [2] for the purposes of the origination and termination of telephone toll services." 47 U.S.C. § 153(16). "Telephone exchange service" is defined as "(A) service within a telephone exchange, or within . . . [an] exchange area . . . , and which is covered by the exchange service charge, or (B) comparable service . . . by which a subscriber can originate and

---

[4] As the Commission has made clear, neither the Wireline Competition Bureau, in the *Virginia Arbitration Order*, nor the Commission, in the *Starpower Damages Order*, addressed the question whether the Commission's intercarrier compensation rules require payment of compensation for Virtual NXX calls. *See Starpower Communications, LLC v. Verizon South Inc.*, 18 FCC Rcd 23625, ¶ 17 n.68 (2003) ("[W]e need not and do not address the legal and policy question of whether incumbent LECs have an affirmative obligation under [47 U.S.C. §§ 251(b)(5) and 252(d)(2)] to pay reciprocal compensation for virtual NXX traffic."); *id.* ¶ 17 n.63 ("The Wireline Competition Bureau [in the *Virginia Arbitration Order*] did not address the legal question of whether incumbent local exchange carriers have an affirmative obligation under the Act to provide reciprocal compensation for virtual [F]X traffic."); *Maryland/DC/West Virginia 271 Order* ¶ 151 n.601 (same).

[5] *See* Memorandum Opinion and Order, *AT&T Corp. v. Bell Atlantic-Pennsylvania*, 14 FCC Rcd 556, ¶¶ 71, 80 (1998), *recon. denied*, 15 FCC Rcd 7467 (2000).

terminate a telecommunications service." *Id.* § 153(47). "Telephone toll service," in turn, is defined as "telephone service between stations in different exchanges for which there is made a separate charge not included in contracts with subscribers for exchange service." *Id.* § 153(48).

All of the call types listed above satisfy these definitions. They provide access to service and facilities within a given exchange area (*i.e.*, local calling area) for the purpose of connecting to a station (*i.e.*, an end user) located in a different exchange area. And, moreover, a separate charge is imposed on one of the parties to the call, beyond the charge paid for telephone exchange service. Thus, for 1+ long distance, Feature Group A calls, and intraLATA toll calls, the calling party pays the separate charge — whether assessed on a per minute basis or, with recent bundled calling plans, as a flat fee — for a call that connects a station in one exchange area to a station in another exchange. Indeed, it is precisely because the calls travel across the boundaries of an exchange area that the separate charge is imposed. Similarly, 1-800 and traditional FX calls, whether interLATA or intraLATA, connect stations in different exchanges. The only difference is that it is the *called* party, not the calling party, that pays the separate charge and, therefore, the called party's carrier that is offering the telephone toll service. All of these voice calls, therefore, qualify as exchange access and are not subject to reciprocal compensation under the Commission's existing rules.[6]

[6] This is true regardless of where the hand-off between the ILEC and CLEC (or ILEC, IXC, and CLEC) occurs or where financial responsibility for transport transfers from one carrier to another. None of these factors are relevant to the statutory definition of exchange access. In addition, the Commission has made clear that, under its current rules, reciprocal compensation does not apply to "calls that travel to points — both interstate and intrastate — beyond the local exchange." *ISP Remand Order* ¶ 37. Thus, when an ILEC customer places, for example, an intraLATA toll call and pays toll charges to its toll carrier, that call continues to satisfy the definition of exchange access — and the CLEC receiving the call would rightly expect to receive terminating access charges — even if the ILEC to CLEC hand-off (or transfer of financial responsibility) occurs in the same local calling area where the call originated.

The *only* difference between an intraLATA Virtual NXX voice call from an ILEC end-user customer to a CLEC end-user customer and an intraLATA toll call between those same customers is that the CLEC has changed the telephone number assigned to its customer. *See Maryland/DC/West Virginia 271 Order* ¶ 149; *see also* Ex Parte Letter from Donna M. Epps, Verizon, to Marlene H. Dortch, Secretary, FCC, CC Docket Nos. 99-68 & 01-92 (filed Dec. 16, 2004) ("Verizon Dec. 16 Ex Parte"). That is, it remains the case that such a call provides "telephone service between stations in different exchanges" and that one party to the call — now, the CLEC customer receiving the call, rather than the ILEC customer placing the call — pays "a separate charge" above and beyond the charges that are imposed on the calling and called party for service within the local calling area.[7] Accordingly, intraLATA Virtual NXX voice calls are "exchange access" and not subject to reciprocal compensation under the Commission's current rules — the CLEC's assignment of a different telephone number to its customer is irrelevant to the statutory classification of the call. None of the more than 30 state commissions to consider this issue has ever held otherwise.[8] The same is true of interLATA Virtual NXX voice calls,

[7] Some have claimed that the ILECs' traditional local calling areas should not be used for these purposes. At a minimum, when a Virtual NXX call is made by an ILEC customer, the only applicable local calling area is the ILEC's — that, after all, is what the ILEC customer is purchasing. While CLECs have the right to establish their own retail local calling areas, they have no right to alter an ILEC's retail calling areas. In any event, in all, if not virtually all, states, the legacy local calling areas are, in fact, the result of extensive state regulation. For that reason, virtually all of the state commissions to address the issue have rejected claims that CLECs should be able to modify the intercarrier compensation rules by changing their retail local calling areas. *See*, *e.g.*, Opinion Adopting Final Arbitrator's Report with Modification, Dec. 02-06-076 (Cal. PUC June 27, 2002), *aff'g* Final Arbitrator's Report, Application Nos. 01-11-045 & 01-12-026 (Cal. PUC May 15, 2002); Arbitration Order, D.T.E. 02-45 (Mass. DTE Dec. 12, 2002); Order Resolving Arbitration Issues, Case 02-C-0006 (N.Y. PSC May 24, 2002).

[8] To the extent a handful of those commissions required payment of reciprocal compensation for Virtual NXX calls, they did so for the same (erroneous) administrability concerns underlying the Bureau's decision in the *Virginia Arbitration Order*.

which are no different from the interLATA foreign exchange calls discussed above,[9] and as to which there is no dispute that reciprocal compensation does not apply.

**b.** *ISP-Bound Traffic.* The Commission's current rules provide that telecommunications traffic "exchanged between a LEC and a telecommunications provider other than a CMRS provider" is not subject to reciprocal compensation if it "is interstate or intrastate . . . information access." 47 C.F.R. §§ 51.701(b)(1), 51.703(a). The Commission's rules also explicitly incorporate those portions of the *ISP Remand Order* in which the Commission held that ISP-bound traffic exchanged between an ILEC and a CLEC is information access. *See id.* § 51.701(b)(1) (citing, *inter alia*, *ISP Remand Order* ¶ 42).[10] For this reason, there should be no dispute that ISP-bound traffic is not subject to reciprocal compensation, regardless of where the ISP is located. In any event, however, where the ISP is not located in the same local calling area as the calling party, reciprocal compensation does not apply regardless of the treatment of ISP-bound calls.

In the *ISP Remand Order*, the Commission also established an interim compensation regime, pursuant to its authority to regulate interstate traffic under 47 U.S.C. § 201, to regulate

---

[9] On an interLATA Virtual NXX call, the CLEC receives the call at its point of interconnection in the LATA in which it originates and transports the call to its customer in a different LATA (often in a different state). An IXC similarly receives an interLATA traditional foreign exchange call at its point of presence near where the call originates before transporting it to its customer in a different LATA or state.

[10] Although the D.C. Circuit did not accept the Commission's chosen statutory grounds for finding that ISP-bound traffic is not subject to reciprocal compensation, the D.C. Circuit explicitly decided not to vacate the Commission's regulation. As the Commission has acknowledged, that means that its "reciprocal compensation . . . rules remain in effect." Memorandum Opinion and Order, *Joint Application by BellSouth Corp., et al., for Provision of In-Region, InterLATA Services In Georgia and Louisiana*, 17 FCC Rcd 9018, ¶ 272 (2002); *see also*, *e.g.*, *National Lime Ass'n v. EPA*, 233 F.3d 625, 635 (D.C. Cir. 2000) (regulations that are remanded but not vacated are "le[ft] . . . in place during remand"). Thus, until the Commission amends its reciprocal compensation regulations, it remains bound by the provision of the regulation excluding information access.

intercarrier compensation for ISP-bound traffic. *See ISP Remand Order* ¶¶ 77-88. Some CLECs contend that this compensation regime applies to *all* calls to ISPs — regardless of where the ISP is located and regardless of how the call to the ISP is dialed. The D.C. Circuit, in contrast, had no difficulty recognizing that the "interim [compensation] provisions devised by the Commission" apply *only* to "calls made to [ISPs] *located within the caller's local calling area*." *WorldCom, Inc. v. FCC*, 288 F.3d 429, 430 (D.C. Cir. 2002) (emphasis added). In other words, the *ISP Remand Order* compensation regime applies only to calls that would have been subject to reciprocal compensation if made to an end-user customer, rather than an ISP.

The D.C. Circuit's understanding of the scope of the intercarrier compensation obligation established in the *ISP Remand Order* is plainly correct. The question before the Commission with respect to ISP-bound traffic has always been whether calls to an ISP in the same local calling area as the calling party are to be treated the same as calls to a local business. Indeed, the CLECs' long-standing argument that a call to an ISP is just like a call to a pizza parlor would be nonsensical if they were referring to a pizza parlor located across the state from the calling party, rather than to one physically located in the same local calling area as the calling party. Thus, in the *ISP Declaratory Ruling*[11] (¶¶ 12-15), the Commission rejected CLECs' arguments that a call to an ISP "terminate[s] at the ISP's *local* server" and "ends at the ISP's *local* premises." And, in the *ISP Remand Order* (¶¶ 10, 13), the Commission recognized that it was addressing the compensation due for "the delivery of calls from one LEC's end-user customer to an ISP in the *same local calling area* that is served by a competing LEC."

[11] Declaratory Ruling and Notice of Proposed Rulemaking, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, 14 FCC Rcd 3689 (1999) ("*ISP Declaratory Ruling*").

The Commission also made clear that its interim compensation regime was designed to "limit, if not end, the opportunity" for CLECs to engage in "regulatory arbitrage" through serving ISPs. *ISP Remand Order* ¶ 77. That arbitrage opportunity arose as a result of state commission decisions requiring payment of reciprocal compensation for calls to ISPs located in the same local calling area as the calling party, normally on the theory that such calls are no different from a call to any other business located in that local calling area. The Commission, therefore, had no occasion or need to establish a new intercarrier compensation rule for *inter*exchange calls to ISPs. In addition, if the CLECs were correct that the *ISP Remand Order* created a compensation obligation for such interexchange calls, the result of such a decision would have been to create *new* arbitrage opportunities, by requiring incumbents to *pay* compensation on interexchange, long-distance calls — such as 1+ dialed and 1-800 calls — for which they had previously *received* compensation under established rules. The CLECs' attempt to expand the scope of the interim intercarrier compensation regime, therefore, is inconsistent with the D.C. Circuit's understanding of that regime, the Commission's order, and the policy rationales underlying the establishment of that regime.

The Commission, therefore, has not established a federal intercarrier compensation rule for interexchange calls to ISPs, though it surely could do so in the future. As the Commission has correctly held, ISP-bound calls are jurisdictionally interstate, and the Commission has jurisdiction over the compensation for such calls under § 201. Until such time as it modifies its existing rules, however, incumbents have no obligation to pay CLECs pursuant to the interim intercarrier compensation regime (or the reciprocal compensation rules) for interexchange calls to ISPs.

**2.** ***Traditional FX, Wireless and VoIP Calls.*** As noted above, some have claimed that reading the Commission's existing rules to limit the applicability of reciprocal compensation and ISP intercarrier compensation to *intra*exchange calls is inconsistent with the manner in which other types of calls — in particular, traditional FX, wireless, and VoIP calls — are treated. Those claims are wrong. As explained above, and shown below, although Verizon and other carriers can use telephone numbers to determine if such calls are interexchange (or interMTA), they do so where those numbers are the best information that Verizon has to reflect the locations of the parties to a call or where any inaccuracies are *de minimis*, so that development of more accurate billing factors is unwarranted.

**a.** *Traditional FX Calls*. Although ILEC traditional FX service is different from CLEC Virtual NXX service in many respects,[12] calls to ILEC traditional FX customers (whether end users or ISPs) also are not subject to either reciprocal compensation or ISP intercarrier compensation under the Commission's existing rules. Again, this is because such calls are interexchange calls, even if they appear "local" to the CLEC customer placing the call. CLEC calls to ILEC traditional FX customers, however, make up a tiny fraction of all calls by CLEC customers to ILEC customers — less than one percent of all traffic and a few hundred or thousand dollars monthly to any given CLEC. For this reason, as noted above, Verizon has not invested in developing billing factors that would exclude these few calls from Verizon's reciprocal compensation bills to CLECs. There simply is not enough traffic to justify it. Nonetheless, Verizon has repeatedly offered to work with CLECs to conduct studies or to develop factors for traditional FX traffic, if the CLEC would do the same for calls to the CLEC's Virtual NXX customers, which can make up 50 percent or more of all traffic delivered to a

[12] *See*, *e.g.*, Verizon Dec. 16 Ex Parte.

CLEC and account for hundreds of thousands or millions of dollars in monthly billing by individual CLECs. No CLEC, however, has taken Verizon up on that offer, which still stands.[13]

**b.** *Wireless Calls.* The Commission's current rules provide that telecommunications traffic "exchanged between a LEC and a CMRS provider" is subject to reciprocal compensation if, "at the beginning of the call, [it] originates and terminates within the same Major Trading Area." 47 C.F.R. §§ 51.701(b)(2), 51.703(a). The Commission's rule for calls exchanged between wireline and wireless carriers has not changed since the *Local Competition Order*,[14] when the Commission first promulgated the rule. At that time, the Commission explained that whether such calls originate and terminate within the same MTA for purposes of the reciprocal compensation rule would be "based on the *parties' locations* at the beginning of the call." *Local Competition Order* ¶ 1043 (emphasis added). The Commission provided further that, for purposes of determining the "*geographic location* of the mobile customer," "the *location of the initial cell site* when a call begins shall be used." *Id.* ¶ 1044 (emphases added). Thus, it is clear that the Commission's current reciprocal compensation rules for LEC-CMRS calls are based on the physical location of the mobile caller and the wireline called party — not on a comparison of the telephone numbers. Therefore, the existing rules treat *inter*MTA calls between LEC and CMRS customers the same as *inter*exchange calls between ILEC and CLEC customers. No such calls are subject to reciprocal compensation, even if they are billed for retail purposes as a local call, based on a comparison of the calling and called parties' telephone numbers.

[13] If the Commission were to make clear that Virtual NXX service is not subject to reciprocal compensation to the extent that ILECs establish methods to avoid billing reciprocal compensation for calls by CLEC customers to ILEC traditional FX customers, that would obviate the need for mutual agreement, and Verizon would establish such factors for its own service.

[14] , *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499 (1996) ("*Local Competition Order*").

At the same time, the Commission recognized that LECs and CMRS providers might not be able to distinguish interMTA calls from intraMTA calls on a "real time" basis and did not require them to do so. *See id.* ("[I]t is not necessary for incumbent LECs and CMRS providers to be able to ascertain geographic locations when determining the rating for any particular call at the moment the call is connected"). Instead, the Commission permitted "parties [to] calculate overall compensation amounts by extrapolating from traffic studies and samples." *Id.* This is what Verizon's interstate access tariff provides: Verizon will use "call detail to render bills" where the call detail it receives — including, but not limited to, the telephone number — is "sufficient . . . to permit it to determine the jurisdiction" of the calls, based on the geographic location of the parties to the calls; otherwise, it will use information in addition to the telephone number to develop billing factors with the other carrier, which will be used either alone or in conjunction with telephone numbers to render bills.[15] And this is how Verizon bills for wireless calls where carriers provide it with information on the originating point of calls — specifically, through the use of billing factors — in addition to the telephone number of the calling party. It is also the same manner that Verizon proposes ILECs and CLECs use to exclude Virtual NXX and traditional foreign exchange calls from their reciprocal compensation bills.

For LEC-CMRS traffic, however, the Commission's prior rulings do not mean that parties are precluded from relying exclusively on a comparison of telephone numbers to determine intercarrier compensation. Parties may do so by mutual agreement. *Cf.* 47 U.S.C. § 252(a)(1). In addition, if the party with the information necessary to determine whether a call is intraMTA or interMTA (and, if interMTA, whether interstate or intrastate) refuses to provide that information or to develop appropriate traffic studies, the other party would be justified in

[15] Verizon FCC Tariff No. 1, § 2.3.10(A)(1)(a)-(b), (B), (E).

calculating its bills based on a telephone number comparison. This, however, is not the case with Virtual NXX traffic, where the party preparing the bill (the CLEC) is also the party with the necessary information to determine whether the call is interexchange (the location of its Virtual NXX customer). CLECs, therefore, could not be justified in an attempt to rely exclusively on telephone number comparisons to pass off interexchange calls as intraexchange calls for purposes of either reciprocal or ISP intercarrier compensation.[16]

**c.** *VoIP Calls*. As demonstrated above, the Commission's existing rules provide that reciprocal compensation and ISP intercarrier compensation do not apply to *inter*exchange calls, or, in the case of LEC-CMRS traffic, to *inter*MTA calls. While these rules remain in effect, they should apply when one party to a call uses VoIP, rather than traditional, circuit-switched wireline service. To the extent that VoIP enables end-user customers to obtain non-geographically relevant telephone numbers (much like wireless customers can), it thus provides certain *retail* billing advantages (namely, the ability to receive calls without the calling party incurring the toll charges that normally would apply).

But these retail billing advantages should not govern whether the Commission's existing reciprocal compensation and ISP intercarrier compensation rules apply to individual VoIP calls, just as those billing advantages do not govern for non-VoIP calls. As with LEC-CMRS traffic, however, this does not mean that parties exchanging VoIP calls are precluded from relying exclusively on a comparison of telephone numbers to determine intercarrier compensation. Again, parties may do so by mutual agreement and might reach such an agreement based on a determination that, for example, given the current volume of VoIP traffic, both parties are likely

[16] To Verizon's knowledge, Virtual NXX is not an issue with wireless carriers, as those carriers have an economic incentive to deploy cellular towers in, and to assign numbers associated with, the MTAs in which their customers reside.

to receive an equivalent amount of traffic, so that instances in which a VoIP customers telephone number does not match its geographic location will roughly even out. In addition, because the Commission is currently examining intercarrier compensation in the context of VoIP calls, parties might reasonably agree to delay investing in the development of more precise methods of intercarrier compensation — such as using actual customer location information to develop billing factors — until the Commission has concluded its review.